

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION**

NOVA CONSULTANTS, INC.,

Plaintiff,

v.

UGE INTERNATIONAL, LTD.,
et al.,

Defendant.

Case No. 17-11160
Hon. Terrence G. Berg

**ORDER ENTERING JUDGMENT AGAINST DEFENDANT
URBAN GREEN ENERGY, INC., AND DISMISSING
DEFENDANTS UGE INTERNATIONAL, LTD., AND
UGE USA, INC. WITH PREJUDICE**

On June 30, 2017, the Clerk entered default against Defendant Urban Green Energy, Inc. for “failure to plead or otherwise defend.” See Clerk’s Entry of Default, Dkt. 19. On September 5, 2017, the Court dismissed Defendant UGE International, Ltd., and Defendant UGE USA, Inc. without prejudice pending completion of the terms of a settlement agreement between those parties and Plaintiff. The Court retained jurisdiction to enforce the settlement agreement. Stipulated Order, Dkt. 22. As a consequence of this dismissal, Defendant Urban Green Energy, Inc., which had defaulted, was the only Defendant remaining in the case. On September 20, 2017, Plaintiff NOVA Consultants, Inc. filed a

Motion for Judgment Against Urban Green Energy, Inc. Only. Dkt. 24. In that motion, Plaintiff itemized the following amounts of damages, attorney's fees, and costs in support of its motion for judgment:

- \$71,110.92 for the amount paid by Plaintiff under their contract with Urban Green Energy, Inc.,
- \$20,000.00 for additional costs and expenses incurred by NOVA for re-engineering expenses,
- \$10,000 for attorney fees incurred by NOVA as a result of Urban Green Energy, Inc.'s breach of their contract, and
- \$7,500.00 for economic damages as a result of lost resources.

These specific amounts come to a total of \$108,610.92, but "as a result of the undisputed facts of fraud an[d] misrepresentation," NOVA requested treble damages, for a total of \$325,832.76. Dkt. 24, PageID 239.

At Plaintiff's request, on April 5, 2018, because Defendants UGE International, Ltd. and UGE USA, Inc., allegedly failed to perform according to the settlement agreement, the Court reinstated Plaintiff's claims against them. Order, Dkt. 30. In that Order, the Court gave those parties twenty-one (21) days to file an Answer and Affirmative Defenses to Plaintiff's Complaint or be defaulted. No party filed an answer or affirmative defense, and Plaintiff has not filed a motion for default judgment against those defendants.

On July 19, 2018, the Court entered an Order for Plaintiff to Show Cause Why This Case Should Not be Dismissed for Failure to

Prosecute. Dkt. 31. On July 26, 2018, Plaintiff filed an Objection to Dismissal for Failure to Prosecute, informing the Court that “In efforts to resolve the matter, the manufacturer has been slowly shipping parts and components. The remaining components should be delivered within the next thirty (30) days. Receipt of components will resolve the matter between Plaintiff and UGE International, Ltd. and UGE USA, Inc. Upon receipt of the components, the case will be dismissed as to those two Defendants.” Dkt. 32, PageID 284. In that filing, Plaintiff requests “this matter remain open to finalize the terms of the settlement agreement, to enter Judgment in the amount of \$25,000.00 against Urban Green Energy, Inc. and to enter a Dismissal of the claims against UGE International, Ltd. and UGE USA, Inc.” *Id.* at PageID 285. Although Plaintiff states in the motion that “[a]ttached is a proposed Judgment against Defendant, Urban Green Energy, Inc., only,” the attachment is actually an order dismissing the complaint against UGE International, Ltd. and UGE USA, Inc. with prejudice. Dkt. 32-1, PageID 286. Regardless, it is plain that Plaintiff is asking that judgment be entered against defaulted Defendant Urban Green Energy, Inc. in the amount of \$25,000 and that a dismissal be entered of the claims against UGE International, Ltd. and UGE USA, Inc. That request will be granted.

Since July 26, 2018, neither Plaintiff nor any Defendant has informed the Court as to the status of the settlement agreement, nor has any party filed a response to Plaintiff's Objection. Plaintiff's Objection introduces a third damage amount that it seeks from Urban Green Energy, Inc.: Plaintiff now asks for judgment in the amount of \$25,000.00. This is considerably less than the \$325,832.76 it requested as a total amount in its motion for judgment, or the \$108,610.92 which is the sum of the itemized damages, costs and attorney's fees that this same motion requested.

Nevertheless, given that Plaintiff has indicated that the contract is being performed, albeit slowly and late, the Court will accept the amount of \$25,000.00 as a fair and reasonable determination of the economic damages arising from Urban Green Energy, Inc.'s failure to perform according to their contract.

Accordingly, it is **ORDERED** that Plaintiff's Motion for Judgment is **GRANTED**, and judgment in the amount of \$25,000.00 is now entered against defaulted defendant Urban Green Energy, Inc. only. Furthermore, it is **ORDERED** that the Complaint against Defendants UGE International, Ltd., and Defendant UGE USA, Inc. is **DISMISSED WITH PREJUDICE**. The Court will retain jurisdiction to enforce the terms of the settlement agreement. *See, e.g., Moore v. United States Postal Serv.*, 369 Fed. App'x 712 (6th Cir. 2010).

SO ORDERED.

Dated: September 20, 2018 s/Terrence G. Berg
TERRENCE G. BERG
UNITED STATES DISTRICT JUDGE

Certificate of Service

I hereby certify that this Order was electronically filed, and the parties and/or counsel of record were served on September 20, 2018.

s/A. Chubb
Case Manager